

1 robbery, do they?

2 A. No, they don't.

3 Q. This idea about a robbery just comes up out of  
4 the blue while you guys are back out cruising?

5 A. Yes, it did.

6 Q. And you were part of this decision to commit a  
7 robbery, were you?

8 A. Yes, I was.

9 Q. You contributed something to that plan?

10 A. No, I did not.

11 Q. You were part of the decision but you didn't  
12 contribute to it?

13 A. What do you mean contribute to it?

14 Q. Well, did you have any idea about how to do this  
15 robbery yourself?

16 A. No, I didn't.

17 Q. All the ideas were probably somebody else's, is  
18 that it?

19 A. Yes, they were.

20 Q. Well, you said something about switching places  
21 in the car, do you remember that?

22 A. Yes, I did.

23 Q. Now, this story about switching places in the  
24 car, is that something that you told Detective Lawson  
25 when he interviewed you on videotape?

1 A. I think so. I can't recall.

2 Q. Now, the prosecutor this morning asked you  
3 whether you have always told the same story that you  
4 told here today. Do you remember that, that question?

5 A. I, yeah, I do.

6 Q. And in fact, he specifically asked you whether on  
7 the videotape you told the same story that you told  
8 today. Do you remember that question?

9 A. Yes, I do.

10 Q. And you agreed with him this morning that on the  
11 videotape you told the very same story that you told  
12 today, am I right?

13 A. Yes, I did.

14 Q. But now you're saying you don't remember whether  
15 on the videotape you told Detective Lawson that there  
16 was some switching around of places in the car before  
17 the first robbery?

18 A. I wasn't asked that question here today.

19 Q. Well, I'm asking you right now.

20 A. I told you, I can't recall.

21 Q. I thought you told the exact same story when the  
22 prosecutor asked you this morning but when I asked you  
23 about a detail, you don't recall?

24 A. A certain detail, yes.

25 Q. Well, in any event, it's now dark, isn't it, when

1 this plan comes up?

2 A. Yes, it is.

3 MR. SLAVENS: Objection, your Honor.

4 It's now dark. Inference it wasn't dark earlier. The  
5 evidence is he met at 10, 10:30, 11 o'clock.

6 MR. ARNTZ: Pretty little words in  
7 there.

8 THE COURT: Let's, number one, ask the  
9 question a little bit more precisely, Mr. Arntz.  
10 Number two, let's not have explanations from the  
11 objecting attorney.

12 All right. You may  
13 proceed, Mr. Arntz.

14 MR. ARNTZ: Thank you.

15 BY MR. ARNTZ:

16 Q. When the decision was made that there was going  
17 to be a robbery, it was dark outside?

18 A. Yes, it was.

19 Q. And you were ducking down somewhere in the car,  
20 is that right?

21 A. During what time?

22 Q. Well, just before the robbery happened?

23 A. Yes, I was.

24 Q. Now, this morning you told me that you were  
25 laying across the back seat facing the front of the car.

1 Do you remember that?

2 A. Yes, I was.

3 Q. But on the videotaped interview with Detective  
4 Lawson, you told him you were ducking down behind the  
5 driver seat. Do you remember that?

6 A. Yes, I was behind the driver seat and the  
7 passenger seat. He didn't ask me about the passenger  
8 seat.

9 Q. Well, when you're laying out on the passenger  
10 seat in the back, is that what you meant when you said  
11 you were ducking down?

12 A. Yes.

13 Q. Now, how did you duck down when you're laying on  
14 the back seat?

15 A. 'Cause I was balled up.

16 Q. Balled up?

17 A. Balled up on the back seat.

18 Q. Why were you balled up?

19 A. So he couldn't see me.

20 Q. Who couldn't see you?

21 A. McDonald.

22 Q. Why was he not supposed to see you?

23 A. Because he wouldn't have stopped and talked if he  
24 saw more than two people, more than one person in the  
25 car.

1 Q. How do you know that?

2 A. I don't know. That's what I was told.

3 Q. Tony Elopskey told you that?

4 A. Yes, he did.

5 Q. How did he know that?

6 A. I have no idea.

7 Q. Was he familiar with the practices of homosexuals  
8 in that area, if you know?

9 A. I don't know. I didn't ask.

10 Q. You just took it from Tony this is what a  
11 homosexual will do out in that area?

12 A. I don't know. I didn't ask.

13 Q. Well, when Tony told you you better duck down or  
14 ball up or whatever you did, you did that, didn't you?

15 A. Yeah, we both did.

16 Q. And you say you weren't covered up with anything?

17 A. No, I was not.

18 Q. And you had a gun, is that right?

19 A. Yes, I did.

20 Q. When did you pick up this gun?

21 A. When did I pick it up?

22 Q. Yeah.

23 A. What do you mean when I pick it up?

24 Q. How did the gun get there in the back seat with  
25 you that night?

1 A. I left the house with it that night.

2 Q. So way back at the beginning of the story when  
3 you're looking for your girlfriends, you packed a gun  
4 with you?

5 A. I packed it wherever I go.

6 Q. You used to carry a gun wherever you went?

7 A. Yes, I did.

8 Q. How would you carry that gun?

9 A. In my back pocket.

10 Q. Was it loaded?

11 A. No, not until about a week before.

12 Q. You used to carry an empty gun around with you in  
13 your back pocket?

14 A. Yes, I did.

15 Q. And then just a week before Mark McDonald was  
16 killed, you loaded that gun, am I right?

17 A. Yes, I did.

18 Q. What caused you to start loading the gun that you  
19 used to carry around empty in your back pocket?

20 A. 'Cause I got jumped.

21 Q. You got jumped by who?

22 A. Four guys.

23 Q. Four guys?

24 A. Yes.

25 Q. And so on June 21st when you left the house to go

1 find your girlfriends, you thought you better pack some  
2 ammunition with you?

3 A. I always kept it loaded for a whole week.

4 Q. And you had the gun with you in the back seat of  
5 Tony's car when he pulled into that levee area at  
6 Monument and Findlay?

7 A. Yes, I did.

8 Q. Where was the gun then?

9 A. In my back pocket.

10 Q. Well, when you laid in the back seat there, the  
11 gun stayed in your back pocket?

12 A. Sure did.

13 Q. Well, you knew there was going to be a robbery,  
14 didn't you?

15 A. Yes, I did.

16 Q. And you were going to be part of that robbery, am  
17 I right?

18 A. Yes, I was.

19 Q. What part were you going to play in that robbery?

20 A. Didn't have no certain part.

21 Q. Well, you had a part in the robbery but you had  
22 no idea what it was?

23 A. Nobody did.

24 Q. Nobody had an idea what they would do in the  
25 robbery?

1           So the fact that you had a loaded gun with you  
2           there in the back seat didn't have anything to do with  
3           the plan to rob somebody there, there at the levee that  
4           night?

5           A.     No, I didn't.

6           Q.     Just happened to be there coincidentally?

7           A.     Yep.

8           Q.     Well, you're ducked down or balled up somehow in  
9           the back seat. And the reason for that is because  
10          you're going to conceal yourself or hide, is that right?

11          A.     Yes.

12          Q.     And at some point Tony parked that car and you  
13          heard him talking to another person, didn't you?

14          A.     Yes, I did.

15          Q.     And this was in the dark place, wasn't it?

16          A.     Yes, it was.

17          Q.     And the voice you heard Tony talking to was no  
18          one you had ever heard before?

19          A.     That's right.

20          Q.     And it's the voice of the man who was killed?

21          A.     I assumed it was. Yes, it was.

22          Q.     And when you heard Tony talking to that person,  
23          Tony was sitting in the driver seat of his car?

24          A.     Yes, he was.

25          Q.     And the window was rolled down on the driver

1 side?

2 A. Yes, it was.

3 Q. And the voice of the other man was coming from  
4 the direction of the driver's window?

5 A. Yes, it was.

6 Q. And you were trying not to be seen and you  
7 weren't looking out the driver's window, were you?

8 A. No, I wasn't.

9 Q. In fact, it was so dark you couldn't probably see  
10 anyway had you looked, is that right?

11 A. I guess.

12 Q. Didn't have your glasses with you, did you?

13 A. No.

14 Q. And it was dark out there, wasn't it?

15 A. Yes, it was.

16 Q. What time was that?

17 A. About between 10 and 11 o'clock.

18 Q. Ten or 11 o'clock when you heard the conversation  
19 at Tony's driver window?

20 A. No, I didn't have a watch.

21 Q. So you really don't know what time it was?

22 A. Around 10 or 11 o'clock.

23 Q. Okay.

24 A. No, it was later than that.

25 Q. How much later was it than that?

1 A. I know it was about, probably 2, 3, 3:30 in the  
2 morning.

3 Q. How do you know that?

4 A. Because it wasn't too far from daylight,  
5 obviously.

6 Q. Well, you been trying to read police reports,  
7 haven't you?

8 A. No, I haven't.

9 Q. Has your lawyer not given you police reports to  
10 take a look at?

11 A. He gave me a discovery packet.

12 Q. The discovery packet contains police reports?

13 A. Yes.

14 Q. And you looked at those, didn't you?

15 A. No, I haven't.

16 Q. Your lawyer gave you a discovery packet  
17 containing the police reports in your case where you're  
18 charged with two counts of aggravated murder and you  
19 never looked at the police reports?

20 A. No, I didn't.

21 Q. But you just guessed that this conversation  
22 happened at the driver's window about 2 o'clock because  
23 it was almost daylight, is that it?

24 A. Not that it was almost daylight but it was early  
25 in the morning.

1 Q. Early in the morning.

2 And the conversation went on for a while. The  
3 only voices you heard were the man at the window and  
4 Tony's?

5 A. Went on for about ten minutes.

6 Q. Ten minutes. Okay.

7 And at no time did you see the man at the window  
8 standing there?

9 A. I saw him wearing a white shirt with a jacket on  
10 and glasses.

11 Q. Oh, you opened your eyes then to see who that  
12 was?

13 A. I peeked up.

14 Q. You peeked up.

15 You took a chance that he might see you when you  
16 peeked up, didn't you?

17 A. Yeah, but he wasn't paying attention to the back  
18 seat.

19 Q. Oh, I see.

20 When you peeked up, he was standing -- let me ask  
21 you. Was he leaning into the driver's window?

22 A. Yes, he was.

23 Q. Leaning way far in there?

24 A. Not way far in there. He was just standing there  
25 with his hands on the window.

1 Q. Standing like this?

2 A. Like this.

3 Q. Like this. I'm sorry.

4 A. He was sitting there talking.

5 Q. Standing there talking?

6 A. Yes.

7 Q. Did he have his head inside the car?

8 A. No, he didn't.

9 Q. Standing sort of like this at the driver's  
10 window?

11 A. Yeah.

12 Q. You raised your head up to look out there and see  
13 that?

14 A. I didn't raise it up far.

15 Q. Just a little bit?

16 A. Yeah.

17 Q. And after about ten minutes of this talking this  
18 morning, I think you said, the next thing I know I heard  
19 gunshots.

20 A. Yes, I did.

21 Q. You heard the voice of the man at the window, you  
22 heard Tony's voice and you heard that go on for ten  
23 minutes and the next thing you knew you heard gunshots?

24 A. Well, I heard my brother say, now?

25 Q. You heard your brother say what?

1 A. Now? You want me to do it now? He kept on  
2 asking Tony but Tony ignored him.

3 Q. Now, in morning when the prosecutor asked you  
4 what you heard, you told him, the next thing I know I  
5 heard gunshots. Do you remember saying that?

6 A. Yes, I do.

7 Q. And now you're saying that you heard your brother  
8 say what?

9 A. I didn't know he wanted me to say it precise to  
10 every tiny, little detail.

11 Q. What are you now saying you heard your brother  
12 say?

13 A. Now? Do you want me to do it now?

14 Q. Do you want me to do it now?

15 Well, who is your brother talking to?

16 A. Tony. Saying it in a low voice.

17 Q. In a low voice but you could hear it?

18 A. Yes.

19 Q. Well, your brother is where in the car now?

20 A. Where he's at?

21 Q. Yeah.

22 A. He's sitting up in the passenger side seat.

23 Q. Sitting up in the passenger side seat?

24 A. Yes, he is.

25 Q. Saying to Tony, now? Now? Can I do it now?

1 A. Now? Do you want me to do it now?

2 Q. Do you want me to do it now? In a voice that was  
3 loud enough for you to hear but not for the man at the  
4 window to hear?

5 A. I don't know if he heard it or not.

6 Q. Well, was it after you heard your brother say,  
7 now, now, can I do it now, that he shot this gun?

8 A. Yes, when he was, he was about to walk away.

9 Q. Who was about to walk away?

10 A. The guy, Mark McDonald.

11 Q. Now on that videotaped statement you gave to  
12 Detective Lawson, did you ever say that the man at the  
13 window was about to walk away when he was shot?

14 A. I don't think so.

15 Q. Have you ever told anybody that part of the story  
16 before today?

17 A. No, I didn't.

18 Q. That's a detail that you told for the first time  
19 in your life to me just now, isn't that right?

20 A. First time I seen you and talked to you.

21 Q. But you never told that detail to anybody who  
22 asked you about it before today, have you?

23 A. No, I didn't.

24 Q. You just remembered that for the first time just  
25 now?

1 A. I didn't think it was necessary to say anything  
2 about it.

3 Q. You didn't think it was necessary to tell your  
4 lawyer that part of the story?

5 A. No.

6 Q. You didn't think it was necessary to tell the  
7 prosecutor that part of the story before today?

8 A. I didn't tell him no, no story.

9 Q. Do you remember telling Detective Lawson on the  
10 videotape that your brother said, fuck it, before he  
11 fired a gun?

12 A. Yes, I did.

13 Q. Do you remember telling Detective Lawson on the  
14 videotape that your brother said to the man at the  
15 window, I want your money, before firing the gun?

16 A. No.

17 Q. You don't remember telling Detective Lawson that?

18 A. I didn't tell him that.

19 Q. If we play that video this afternoon, we wouldn't  
20 see you telling Detective Lawson that my brother said, I  
21 want your money?

22 A. I guarantee you you won't see me talking to  
23 Detective Lawson on, on that videotape.

24 Q. Okay. Your brother is sitting up in the  
25 passenger seat and he shoots a man who is leaving the

1 driver's window?

2 A. I don't know if he was actually leaving or not  
3 but he sounds like he was getting ready to by the way he  
4 was talking.

5 Q. Getting ready to leave. And sitting in the  
6 driver seat is Tony Elofskey?

7 A. Yes.

8 Q. And are you telling us that your brother fired  
9 all the way across the inside of that car toward the man  
10 in the window?

11 A. He leaned over like this, put the gun across  
12 Tony's face and fired, fired three shots.

13 Q. Right in front of Tony's face?

14 A. Yes, he did.

15 Q. And how did Tony react to that?

16 A. I don't know. Tony sat there in shock for a few  
17 minutes.

18 Q. Tony was shocked that that had happened?

19 A. Yeah.

20 Q. Did Tony know that you had a loaded gun in his  
21 car that night?

22 A. I don't know if he knew mine was loaded or not.

23 Q. Well, now, you been out with Tony several  
24 different places earlier that preceding day, hadn't you?

25 A. Yes, I had.

1 Q. He took you to the doctor at the hospital?

2 A. Yes.

3 Q. And were you carrying your loaded gun with you in  
4 the hospital?

5 A. Yes, I did.

6 Q. And when Tony took you home, you were still  
7 carrying the loaded gun?

8 A. Yes, I was.

9 Q. And when you ran into Tony while you were out  
10 looking for your girlfriends, you still had the loaded  
11 gun?

12 A. Yes, I did.

13 Q. But Tony had no idea that you were carrying a  
14 loaded gun?

15 A. I don't know if he knew it, if it was loaded or  
16 not.

17 Q. But he knew you had it?

18 A. Yeah.

19 Q. And when a loaded gun was fired in his car at the  
20 man you guys were going to rob, Tony was shocked at  
21 that?

22 A. I assume so, yes.

23 Q. You assume so. Well, what causes you to think  
24 that Tony was shocked when the man you were going to rob  
25 was shot?

1 A. Because afterwards he said something about he was  
2 amazed 'cause it happened, you know, the gun was right  
3 in front of his face. That's all he talked about was  
4 the gun going off in front of his face.

5 Q. Okay. And what was Tony wearing when the gun was  
6 fired right in front of his face?

7 A. I don't remember.

8 Q. Well, now you had seen him earlier that day?

9 A. He could have changed.

10 Q. Did you see him change?

11 A. I don't go home with him.

12 Q. Did you see him change?

13 A. I don't go home with him.

14 Q. Did you see him change his clothes before you  
15 went out riding on the levee?

16 A. I don't know. I don't go home with him.

17 MR. ARNTZ: May I ask the Court to  
18 direct him to answer the question?

19 MR. SLAVENS: I think he has. He said he  
20 doesn't know.

21 THE COURT: You don't know?

22 BY MR. ARNTZ:

23 Q. You don't know?

24 A. No.

25 Q. He might have changed his clothes and he might

1 not have?

2 A. No.

3 Q. It's one of those details you don't remember.

4 He was wearing a shirt of some kind when the --

5 MR. SLAVENS: Objection. Ask that last  
6 be stricken.

7 THE COURT: I think it was a question  
8 that was not formed as a question but the inflection  
9 of the voice was a question, correct, Mr. Arntz?

10 MR. ARNTZ: That's correct.

11 BY MR. ARNTZ:

12 Q. Is that one of the details you don't remember?

13 A. On what?

14 Q. What Tony was wearing when the gun was fired in  
15 front of him?

16 A. I do not remember what he was wearing.

17 Q. All right. Was he naked sitting there when the  
18 gun was fired in front of him?

19 A. I'd hope not.

20 Q. Was he naked?

21 A. I assume not.

22 Q. He had clothes on, to the best of your knowledge?

23 A. Yeah, I assume so.

24 Q. He was wearing a shirt of some kind?

25 A. I'd assume so.

1 Q. But you don't know anything about the kind of  
2 shirt he was wearing?

3 A. No.

4 MR. SLAVENS: Objection. The witness had  
5 answered five times that question.

6 THE COURT: Now I'm going to caution  
7 the prosecutor again. We don't need editorializing.

8 Sustain the objection.

9 BY MR. ARNTZ:

10 Q. Now, when this shooting occurred inside the car,  
11 you didn't see it, did you?

12 A. I raised up during the process of the shooting.

13 Q. Do you remember telling Detective Lawson on the  
14 video that you didn't see anything because you were  
15 looking down at the floor?

16 A. No, I didn't.

17 Q. You never said that on the videotape?

18 A. No.

19 Q. When the shooting occurred, did you raise up and  
20 see where the man went?

21 A. No. I looked up and saw the gun, saw where the  
22 gun was being fired from.

23 Q. What happened to the man after the shooting  
24 occurred?

25 A. From what I heard, he took off running.

1 Q. From what you heard, he took off running?

2 A. Yes.

3 Q. I thought you ran after him?

4 A. I did, but I was still in the car, then we got  
5 out and ran after him.

6 Q. You're telling me that you never saw the man  
7 after the shooting?

8 A. Yes, I saw him after the shooting.

9 Q. Where was he when you saw him after the shooting?

10 A. He was running.

11 Q. So you didn't hear about him running, you saw him  
12 running?

13 A. I heard that he ran, then we ran after him.

14 Q. Okay. You're running after a man who has just  
15 been shot at and for what reason?

16 A. To be robbed.

17 Q. Were you surprised that he had been shot at?

18 A. Yes, I was.

19 Q. Probably shocked you too, right?

20 A. Yes.

21 Q. And despite the fact that this man had been shot  
22 at, you still going to catch up to him and rob him if  
23 you could?

24 A. I followed my brother.

25 Q. You followed your brother, you say, in order to

1 rob him?

2 A. No. We was going to rob him but after he got  
3 shot, we chased after him.

4 Q. For what purpose?

5 A. I don't know why he ran after him, I just ran, I  
6 ran after him.

7 Q. Well, I guess I'm asking you, Walter, why did you  
8 run after the man who had been shot at?

9 A. I ran after my brother.

10 Q. You still wanted to rob the man who had been  
11 shot?

12 A. No. I wanted to get in the car and get out of  
13 there.

14 Q. You wanted to get away from there, didn't you?

15 A. Yes, I did.

16 Q. Because you were so shocked, am I right?

17 A. No, 'cause I was scared and nervous somebody  
18 might have saw it.

19 Q. Scared and nervous that you might get caught?

20 A. Right.

21 Q. You were so scared and nervous that you might get  
22 caught, that's why you got out of the car in the back  
23 seat and ran?

24 A. Chased, chasing my brother, yes, I did.

25 Q. Now, this morning you told the prosecutor that

1       sometime after you chased the man who was running from  
2       the car, your brother asked you for your gun?

3       A.     Yes.

4       Q.     Now, before today had you ever told that detail  
5       before?

6       A.     Yes, I did.

7       Q.     On the videotaped interview with Detective  
8       Lawson, did you tell him that story?

9       A.     I think I did.

10      Q.     You think you did. That your brother wanted your  
11     gun after the man had been shot?

12      A.     Yes.

13      Q.     And for the record, the videotaped interview that  
14     you gave to Detective Lawson occurred within several  
15     hours after you had been arrested, isn't that true?

16      A.     Yes, it was.

17      Q.     Now, you told me that you were scared after the  
18     shooting and you wanted to get out of there?

19      A.     Yes, I did.

20      Q.     Right.

21             What did you do to get out of there?

22      A.     Went up there, got in the car and we left.

23      Q.     Well, the last, last thing you told me was that  
24     you were running out there in the dark after your  
25     brother and that you wanted to get out of there. But

1 you went back to Tony's car?

2 A. Tony pulled up to where we were.

3 Q. Where were you when Tony pulled up?

4 A. Standing there with my brother because he was  
5 asking me for my gun.

6 Q. Where was Mark McDonald?

7 A. Right, right down below, right, right like  
8 underneath my brother.

9 Q. Was Mark McDonald's face up or face down?

10 A. He was on the side.

11 Q. On his side.

12 And you thought he had been injured or killed?

13 A. Yeah, I knew he's been shot.

14 Q. And what did you do about that?

15 A. Wasn't nothing I could do about it.

16 Q. Well, you looked through his property a little  
17 bit later, didn't you?

18 A. Yes, I did.

19 Q. You thought he had been killed and you began to  
20 look through his property?

21 A. I didn't think he was killed.

22 Q. You thought he was still alive there laying out  
23 in the dark on his side?

24 A. He was walking away as we drove away last time I  
25 saw him.

1 Q. Oh, okay. He was down on the ground, after  
2 running away, on his side?

3 A. Yeah.

4 Q. And after his property was taken, you saw him get  
5 up and move again?

6 A. Yes, I did, when we got in the car.

7 Q. He was doing what, walking?

8 A. He was weaving.

9 Q. Weaving.

10 So you thought he was going to be okay?

11 A. I didn't know if he was okay.

12 Q. You didn't care?

13 A. I didn't know.

14 Q. You didn't care?

15 A. I didn't know.

16 MR. SLAVENS: Objection. It's  
17 irrelevant.

18 THE COURT: Sustain the objection.

19 BY MR. ARNTZ:

20 Q. Well, you were looking through his property as  
21 you were leaving, weren't you?

22 A. Yes, I was.

23 Q. Going through the things that were in his  
24 billfold?

25 A. Yes, I was.

1 Q. And you came across a Green Machine card?

2 A. Yes, we did.

3 Q. And it was your idea to try to use that Green  
4 Machine card to get some money out of Mark McDonald's  
5 account?

6 A. Everybody's idea.

7 Q. Well, now, if I was to say that was your idea,  
8 would that be true or false?

9 A. It was part my idea.

10 Q. Part your idea?

11 A. Yes.

12 Q. But not entirely your idea?

13 A. No, it wasn't.

14 Q. And you tried to use that card several times that  
15 night, didn't you?

16 A. I tried, yes, I did.

17 Q. And how many locations did you try that?

18 A. Three.

19 Q. Three.

20 Now, do you remember telling Detective Wade  
21 Lawson you only went to one place to use that card?

22 A. Yes, I did.

23 Q. Do you remember telling Detective Lawson on the  
24 videotaped interview that you only went to one place to  
25 use that card?

1 A. Yes, I did.

2 Q. And couldn't get any money, could you?

3 A. No, I couldn't.

4 Q. How did you feel about that man that had been  
5 shot?

6 MR. SLAVENS: Objection, your Honor.

7 THE COURT: Sustain the objection.

8 BY MR. ARNTZ:

9 Q. Even though you didn't get any money, you kind of  
10 laughed about what had happened, didn't you?

11 A. No, I didn't.

12 Q. Wasn't there some laughter a little later about  
13 how you guys had gone out to rob somebody and killed him  
14 and didn't get any money out of him?

15 A. I didn't laugh about it, no, I didn't.

16 Q. You didn't. You don't know anything about  
17 laughter, about all of that?

18 A. Pertaining to who?

19 Q. Well, I'm asking you whether you were laughing  
20 with Tony Elofskey about the fact that you guys had  
21 robbed and killed somebody and didn't hardly get any  
22 money out of it?

23 A. No, I was not.

24 Q. So if I or somebody said there was a big laughing  
25 session about that, that would be false?

1 A. Yes, it would be.

2 Q. This all occurred in the early morning hours now  
3 of June 22d of last year?

4 A. Yes, it did.

5 Q. And I think you told the prosecutor that Tony  
6 took you back to your place and dropped you off?

7 A. Yes, he did.

8 Q. And did you get some sleep that night?

9 A. No, we didn't.

10 Q. You didn't sleep at all?

11 A. No. It was early in the morning.

12 Q. Well, it's now early in the morning on June 22d.  
13 Did you sleep at all on June 22d?

14 A. No, I didn't.

15 Q. You stayed up all day?

16 A. Yes, I did.

17 Q. How did you do that?

18 A. Will power I guess.

19 Q. More of that strong will power that helped you  
20 not take a drink all last year?

21 MR. SLAVENS: Objection.

22 THE COURT: Sustained.

23 BY MR. ARNTZ:

24 Q. Well, stimulants like cocaine help people stay  
25 awake, don't they?

1 A. I don't know.

2 Q. You wouldn't know anything about that?

3 A. Nope.

4 Q. But in any event, you went back home and didn't  
5 go to sleep and then sometime little later that day you  
6 hooked up with Tony again?

7 A. Tony came over to our apartment.

8 Q. Tony came over. What time was that?

9 A. I don't know. Afternoon time.

10 Q. On the afternoon of June 22d, Tony came over and  
11 picked you up and you got into his car again?

12 A. Yes, I did.

13 Q. And where did the two of you go this time?

14 A. To the doctor's.

15 Q. To the doctor's.

16 Now where was your brother when you and Tony went  
17 out riding to the doctor's?

18 A. Upstairs.

19 Q. Upstairs where?

20 A. In the apartment.

21 Q. What was he doing?

22 A. I think he was just waking up to take a bath.

23 Q. He was sleeping, wasn't he?

24 A. Yes, he was.

25 Q. And you and Tony went out again and now Tony is

1 taking you to the doctor?

2 A. Yes, he was.

3 Q. Because you shot yourself in the foot?

4 A. Yes.

5 Q. Were you defending yourself against all those  
6 girlfriends' fathers who were after you or how did you  
7 shoot yourself in the foot?

8 A. Just screwing around.

9 Q. Just screwing around.

10 When you shot yourself in the foot, was that with  
11 the Raven?

12 A. Yes, it was.

13 Q. That's the same loaded Raven you had with you in  
14 the back seat of Tony's car when Mark McDonald was shot?

15 A. Yes, it was.

16 Q. And now the very next day you're going to the  
17 hospital to get that injured foot repaired, aren't you?

18 A. I had it injured for a couple of days before the  
19 accident.

20 Q. Couple days before.

21 And I think you told me a little bit ago that  
22 when Tony took you to the hospital to repair the injured  
23 foot, you still had the loaded gun with you?

24 A. Yes, I did.

25 Q. Walking around in a public hospital?

1 A. Yes, I did.

2 Q. Was your foot treated?

3 A. Partway, yes, it was.

4 Q. Partway.

5 Was that in the emergency room?

6 A. Yes, it was.

7 Q. And you were seen by a doctor and nurses, I take  
8 it?

9 A. Yes, I was.

10 Q. None of those people noticed the loaded gun in  
11 your back pocket while they were treating you?

12 A. Not while I was laying on the table.

13 Q. And they didn't see it any other time while you  
14 were at the hospital, did they?

15 A. No, they didn't.

16 Q. And after your shot foot was treated, you and  
17 Tony went out riding again?

18 A. We started heading back to the house, the  
19 apartment.

20 Q. Well, before you get back to the house, you run  
21 into Richard Blazer, don't you?

22 A. Yes, we do.

23 Q. Well, how was it that you're going back home and  
24 you run into Richard Blazer on the way home?

25 A. 'Cause it's on the way.

1 Q. What's on the way?

2 A. The levee.

3 Q. The levee.

4 You guys stopped at the levee another time on the  
5 way home, didn't you?

6 A. He did.

7 Q. Who?

8 A. Tony.

9 Q. And was that a surprise to you that Tony stopped  
10 at the levee again on the way home?

11 A. No, 'cause he said he was going to look for  
12 somebody so he could borrow some money.

13 Q. Tony wanted money?

14 A. He wanted to borrow the money.

15 Q. What did he want the money for?

16 A. To get some gas unless he could get money off his  
17 old lady.

18 Q. Where was his old lady?

19 A. At work.

20 Q. Where did she work?

21 A. I think Xenia, Ohio.

22 Q. What time does she get off work?

23 A. I don't know. I didn't ask her.

24 Q. She worked the day shift or night shift?

25 A. The day shift.

1 Q. So at the end of day shift, his old lady would  
2 come home sometime?

3 A. Yeah.

4 Q. And then she could give Tony the gas money,  
5 right?

6 A. Right.

7 Q. But he needed that gas money pretty urgently  
8 before that, is that it?

9 A. I don't know if it was urgent or not.

10 Q. Well, were you almost out of gas when you stopped  
11 at the levee?

12 A. I can't recall. I didn't look at the gas gauge.

13 Q. Tony needed gas money right now though?

14 A. I don't know if --

15 MR. SLAVENS: Objection. It's been asked  
16 and answered.

17 THE COURT: Sustained.

18 BY MR. ARNTZ:

19 Q. And he was looking for a guy that he knew in  
20 order to get this gas money?

21 A. Yes.

22 Q. And the guy that he knew that he was looking for  
23 was Richard Blazer?

24 A. I don't know if it was him he was looking for or  
25 not.

1 Q. Well, how did you two encounter Richard Blazer?

2 A. He pulled up beside him and they started talking.

3 Apparently they knew each other.

4 Q. And while this happens, while Tony and Richard

5 Blazer are talking to each other, your brother is

6 nowhere around, is he?

7 A. No, he is not.

8 Q. He's still back at home so far as you know?

9 A. Yeah.

10 Q. And Richard Blazer is in a car when he talks to

11 Tony?

12 A. Yes, he is.

13 Q. And this is when Tony tells Richard that your

14 name is Tom?

15 A. Yes.

16 Q. Whose idea was that?

17 A. Tony's.

18 Q. Why would Tony tell Richard that your name was

19 Tom?

20 A. I guess he didn't want him to know my real name.

21 Q. Well, if you know, why would Tony not want

22 Richard to, to know your real name?

23 A. I don't have no idea.

24 Q. Well, if you and Tony had talked about robbing

25 Richard, you wouldn't want Richard to know your real

1 name, would you?

2 A. We weren't talking about robbing him at that  
3 time.

4 Q. You hadn't come up with the robbery plan?

5 A. We didn't plan --

6 Q. You didn't have any plans to rob Richard Blazer  
7 at the time he was told your name was Tom?

8 A. No.

9 Q. And to this day as you sit there you still don't  
10 know why Tony introduced you as Tom --

11 A. No, I do not.

12 Q. -- to this man you robbed later?

13 A. No, I do not.

14 Q. When Richard and Tony spoke, you heard Richard  
15 tell Tony that Tony could have some money?

16 A. He could borrow some money.

17 Q. That he could borrow some money from Richard?

18 A. Yes.

19 Q. No problem. Am I right?

20 A. Yes.

21 Q. And was there some arrangements made that Tony  
22 should come and get that money?

23 A. Tony was supposed to call him.

24 Q. Okay. Any reason yet for Tony to rob Richard  
25 Blazer?

1 A. No.

2 Q. He could get Richard Blazer's money without  
3 robbing him now, can't he?

4 A. Yes.

5 Q. And he doesn't need your brother in order to get  
6 money from Richard Blazer because Richard is willing to  
7 give it to him anyway, am I right?

8 A. At that time.

9 Q. At that time.

10 And after Richard left, after Richard told Tony  
11 he would give him some money and left, this is when Tony  
12 turned to you and said, we set up another one?

13 A. Yes, he did.

14 Q. Now, when you were telling the prosecutor this  
15 morning what happened out there at the levee, you didn't  
16 tell the prosecutor that comment about we just set up  
17 another one, did you?

18 A. Like I said, I didn't remember.

19 Q. But now you remember it?

20 A. When it was spoken, when it's mentioned, yes.

21 Q. Tony turned to you and said, we just set up  
22 another one. What did that mean?

23 A. I have no idea.

24 Q. Well, did you say, Tony, what do you mean we just  
25 set up another one?

1 A. I just sat back and we went home.

2 Q. You didn't answer that at all when Tony said, we  
3 just set up another one with him?

4 A. No, I didn't.

5 Q. You didn't understand what he meant? You didn't  
6 care? You weren't curious at all?

7 A. I wasn't curious at all.

8 Q. What do you think he meant now?

9 MR. SLAVENS: Objection, your Honor.

10 THE COURT: Sustained.

11 BY MR. ARNTZ:

12 Q. Now, you've just seen a man shot several hours  
13 before and Tony has introduced you to someone with a  
14 false name and Tony has now told you that the two of you  
15 have just set up another one and are you concerned about  
16 that?

17 A. I wasn't --

18 MR. SLAVENS: Objection, your Honor.

19 A. -- paying attention.

20 THE COURT: Overruled.

21 BY MR. ARNTZ:

22 Q. Well, are you still as scared as you were earlier  
23 that morning after the man had been shot?

24 A. No, I wasn't.

25 Q. You clamed down now?

1 A. Yes, I did.

2 Q. And when Tony said to you, we just set up another  
3 one, your brother was nowhere around, was he?

4 A. No, he wasn't.

5 Q. He wasn't in that car, was he?

6 A. No, he wasn't.

7 Q. He never heard Tony say that, did he?

8 A. No, he wasn't.

9 Q. And after you and Tony left the levee, sometime  
10 later you arrived back at your place?

11 A. Yes.

12 Q. And was your brother home or not?

13 A. Yes, he was.

14 Q. And it's home and with your brother that you all  
15 prepared to rob Richard Blazer?

16 A. Yes.

17 Q. What is Tony wearing now?

18 A. I think he was wearing a black, like a black  
19 sweater.

20 Q. Anything else?

21 A. Blue jeans.

22 Q. Now had Tony changed clothes at all during June  
23 22d up to this point?

24 A. I don't know. He might have had another outfit  
25 on.

1 Q. He had two sets of clothes on, didn't he?

2 A. I don't know.

3 Q. You don't know.

4 Why did you say he might have had another outfit  
5 on?

6 A. I said he might have changed, he might have put  
7 another outfit on.

8 Q. You don't know whether he had two sets of clothes  
9 on when you folks drove to Richard Blazer's house?

10 A. No. I didn't try to undress him.

11 Q. You don't know when you bailed out of that car  
12 during the chase on Helena that Tony was running and  
13 tearing his clothes off as he ran?

14 A. I wasn't paying attention to Tony.

15 Q. Is this news to you?

16 A. Yes, it is.

17 Q. Never heard this before?

18 A. No.

19 Q. Because you never read those police reports --

20 A. That's right.

21 Q. -- that your lawyer gave?

22 MR. SLAVENS: Objection, your Honor.

23 THE COURT: Sustained as to the form.

24 BY MR. ARNTZ:

25 Q. You drive out to Richard Blazer's house, Tony

1 drives, and you get up to his house there on Tennyson  
2 and you pull into the driveway, right?

3 A. Yes, we do.

4 Q. And you can see Richard Blazer sitting in a  
5 window inside his house?

6 A. Yes, I can.

7 Q. From the car in the driveway you can see that?

8 A. Yes, I can.

9 Q. Do you receive social security disability  
10 payments?

11 A. I used to.

12 Q. Until when?

13 A. Till previous.

14 Q. Until when?

15 A. Previous, till I got cut off.

16 Q. When were you cut off?

17 A. Back in November or December.

18 Q. Of last year?

19 A. Yes.

20 Q. That would be just two or three months ago?

21 A. Yes.

22 Q. And you were receiving the SSI payments because  
23 of blindness, isn't that true?

24 A. I had, I had eye disorder.

25 Q. You had an eye disorder?